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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

OCT 13 1992

HSE-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Re: L.H., Inc., 1502 Beckett Avenue,
Cambridge, Ohio

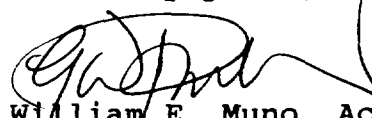
Dear Sir or Madam:

Enclosed please find a unilateral Administrative Order issued by the U.S. Environmental Protection Agency ("EPA") under Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. Section 9601, et seq.

Please note that the Order allows an opportunity for a conference if requested within 3 business days after receipt of the Order, or if no conference is requested, an opportunity to submit comments within 7 business days of receipt of the Order.

If you have any questions regarding the Order, feel free to contact Jacqueline Kline, Assistant Regional Counsel, at (312) 886-7167 or Jose Cisneros, On-Scene Coordinator, at (312) 353-1909.

Sincerely yours,


William E. Muno, Acting Director
Waste Management Division

Enclosure

cc: Jennifer Tiell, Ohio Environmental Protection Agency

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION V

IN THE MATTER OF:

L.H., Inc.
1502 Beckett Avenue
Cambridge, Ohio

Respondents:

Phyllis Snedegar
Janice Barricklow
Philip J. Rich

) Docket No. **L-W-92-C-168**
)
) ADMINISTRATIVE ORDER
) PURSUANT TO SECTION 106(a)
) OF THE COMPREHENSIVE
) ENVIRONMENTAL RESPONSE,
) COMPENSATION AND
) LIABILITY ACT OF 1980,
) AS AMENDED, 42 U.S.C.
) SECTION 9606(a)
)

I. JURISDICTION AND GENERAL PROVISIONS

This Order is issued pursuant to the authority vested in the President of the United States by section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9606(a), and delegated to the Administrator of the United States Environmental Protection Agency ("EPA") by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Regional Administrators by EPA Delegation Nos. 14-14-A and 14-14-B, and to the Director, Waste Management Division, Region V, by Regional Delegation Nos. 14-14-A and 14-14-B.

This Order pertains to property located at 1502 Beckett Avenue, Cambridge, Ohio (the "L.H., Inc. Site" or the "Site"). This Order requires the Respondents to conduct removal activities described herein to abate an imminent and substantial endangerment to the public health, welfare or the environment that may be presented by the actual or threatened release of hazardous substances at or from the Site.

EPA has notified the State of Ohio of this action pursuant to section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

II. PARTIES BOUND

This Order applies to and is binding upon Respondents and Respondents' heirs, receivers, trustees, successors and assigns. Any change in ownership or corporate status of a Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter the Respondents' responsibilities under this Order. Respondents are jointly and severally liable for carrying out all activities required by this Order. Compliance or noncompliance by one or more Respondents with any provision of this Order shall not excuse or justify noncompliance by any other Respondent.

Respondents shall ensure that their contractors, subcontractors, and representatives comply with this Order. Respondents shall be responsible for any noncompliance.

III. FINDINGS OF FACT

Based on available information, including the Administrative Record in this matter, EPA hereby finds that:

1. The L.H., Inc. site is located at 1502 Beckett Avenue, Cambridge, Guernsey County, Ohio, (hereinafter the "Site"). The Site is located on 1/3 acre of land and is surrounded by residential, recreational, and commercial areas. The Site consists of three treatment lagoons and one brick building. Each of the three lagoons cover an area of approximately 1,120 square feet and is five (5) to eight (8) feet deep. Each lagoon is surrounded by three (3) foot high deteriorating wooden-plank fences. The lagoons are lined with thick, rubber liners. A brick building is located on the western portion of the Site. During 1991, seven (7) tanks previously located at the Site were removed and a building located west of Lagoon No. 3 was demolished. Railroad tracks for the Baltimore & Ohio Railroad (Chessie System) border the eastern and northern edges of the property. Mixed residential and business areas are immediately west of the Site, and to the south is the closed Sunstone Pottery Company. Surface waters from the Site drain two hundred (200) feet east into Leatherwood Creek, which enters Willis Creek three (3) miles downstream from the Cambridge City Reservoir pumping station. Cambridge residents within ten (10) miles of the Site purportedly do not use ground water for drinking purposes.
2. L.H., Inc. was incorporated under the laws of the State of Ohio on June 3, 1980. L.H., Inc. established its hazardous waste treatment facility, the Site, on property in Cambridge, Ohio, which it leased from Dee B. Heavilin and Margery A. Heavilin. L.H., Inc. leased this property from on or about June 1, 1980, until on or about September 30, 1982. During 1980, L.H., Inc. contracted with Republic Steel (presently known as LTV Steel) to treat and dispose of spent pickle liquor generated at facilities located in Canton and Massillon, Ohio. This spent pickle liquor was transported from the Republic Steel plants to the Site by a tanker truck hired by L.H., Inc. The spent pickle liquor was then placed in one of three lagoons, mixed with lime as a form of treatment, tested for pH levels, and transferred to the second and third lagoons. From the third lagoon, the treated spent pickle liquor was discharged into the sewer system of the City of Cambridge, Ohio. Spent pickle liquor was received at, treated at, and discharged from the Site from on or about June 10, 1980, until on or about September 25, 1980. The total volume of spent pickle liquor treated at the Site was approximately 1.5 million gallons.

3. L.H., Inc. was a close corporation which had three officers: Respondent Phyllis Snedegar was the President, Sarah Gornall was the Vice-President, and Respondent Janice Barricklow was the Secretary-Treasurer. The corporate formalities generally were not followed during the corporate existence of L.H., Inc.; for example, there is no evidence that a Board of Directors was ever appointed or that any formal meetings of the officers of L.H., Inc. were ever held. During April 1985, L.H., Inc. filed for bankruptcy under Chapter 7 of the U.S. Bankruptcy Code, 11 U.S.C. § 701, et seq., declaring that it had no assets and had debts totalling \$63,289.29.
4. Respondent Phyllis Snedegar owned twenty-five per cent of the stock of L.H., Inc. and served as its President throughout its corporate existence. Respondent Snedegar provided the concept of and plans for the construction of the hazardous waste treatment facility at the Site, including the specifications and dimensions of the lagoons and piping system which were constructed at the Site. Respondent Snedegar provided the knowledge as to how spent pickle liquor was to be received at, treated at, and discharged from the Site. On a daily basis, Respondent Snedegar, as well as Respondent Barricklow, directed all operations of the corporation and the Site, including the direction of the L.H., Inc. employees at the Site on all aspects of the receiving, treatment, and discharge of the spent pickle liquor. Respondent Snedegar had authority and exercised her authority to purchase goods and services and enter into contracts on behalf of L.H., Inc., and to make all hiring and firing decisions.
5. Respondent Janice Barricklow owned twenty-five per cent of the stock of L.H., Inc. jointly with her husband, and served as the Secretary-Treasurer of L.H., Inc. throughout its corporate existence. On a daily basis, Respondent Barricklow, as well as Respondent Snedegar, instructed the employees of L.H., Inc. on all matters of the receipt, unloading, treatment, and discharge of spent pickle liquor at the Site, as well as the general operation of the hazardous waste treatment facility. Respondent Barricklow had authority and exercised her authority to purchase goods and services and enter into contracts on behalf of L.H., Inc., and to make all hiring and firing decisions. Respondent Barricklow was responsible for obtaining all permits required by the local, State, and Federal governments, and communicated extensively with representatives of these governments on permitting matters.
6. Respondent Snedegar and Respondent Barricklow jointly held and exercised all decision-making and policy-setting authority for all aspects of the operation of L.H., Inc., including the acceptance at the Site, treatment at the Site, and discharge from the Site of spent pickle liquor. Respondent Snedegar and Respondent Barricklow held and exercised sole authority to direct the activities of the employees of L.H., Inc. at the

Site. Respondent Snedegar and Respondent Barricklow jointly held all authority to change any and all aspects of the operation of the hazardous waste treatment at the Site.

7. Spent pickle liquor was added to the list of hazardous wastes (40 CFR 261.32, EPA Hazardous Waste Number K062) on May 19, 1980, by the EPA. L.H., Inc., had ninety (90) days after this listing date to notify the EPA of its hazardous waste activities at the Site (42 U.S.C. §6930, 40 CFR 270.1(b)). L.H., Inc. did not file a notification of hazardous waste activity (such as treatment, storage, and disposal) at the Site with EPA until November 4, 1980.
8. Disposal of a hazardous waste which was identified and listed in the federal regulations (40 CFR Part 261) promulgated on May 19, 1980, at a hazardous waste management facility that existed on or before November 19, 1980, was prohibited six months after the May 19, 1980, promulgation date unless that existing hazardous waste management facility had submitted Part A of the Resource Conservation and Recovery Act (RCRA) permit application to the EPA (40 CFR 270.1(b)). L.H., Inc. submitted Part A of the RCRA permit application for the Site on November 19, 1981, twelve months after it was due. L.H., Inc. therefore did not attain interim status for the Site.
9. On December 5, 1980, the Court of Common Pleas of Guernsey County enjoined L.H., Inc. from operating the waste treatment lagoons or discharging any waste from the lagoons. On May 14, 1982, Ohio Environmental Protection Agency (OEPA) and L.H., Inc. entered into a consent decree whereby L.H., Inc. was permanently enjoined from operating the Site for treatment and disposal of industrial waste and was ordered to submit a closure plan to OEPA within thirty (30) days. During October 1982, the EPA issued a Complaint and Order, ordering closure of the Site, to L.H. Inc. On January 25, 1984, L.H., Inc. submitted the plan to OEPA and EPA for review. This plan was amended on May 11, 1984, and conditionally approved by the EPA on July 30, 1984, and by the OEPA on September 24, 1984.
10. In October 1982, EPA issued an administrative order against L.H. Inc., assessing a penalty of \$25,000 for operating a hazardous waste facility without a permit and requiring closure of the Site. In February 1984, an Administrative Law Judge ordered L.H., Inc. to pay the full penalty and close the Site. After reviewing this decision, on August 15, 1984, Chief Judicial Officer of EPA, Ronald McCallum approved the decision and directed L.H., Inc. to comply with the order.
11. During January 1985, L.H., Inc. partially implemented the closure plan, discharging supernatant from Lagoon Nos. 2 and 3 into the city sewer system of Cambridge, Ohio. However, L.H., Inc., did not remove any liquid or sludges from Lagoon No. 1 and left sludge in Lagoon Nos. 2 & 3. L.H., Inc., never

paid the assessed penalty to EPA. During April 1975, L.H., Inc., declared bankruptcy.

12. On April 26, 1985, Philip J. Rich purchased the Site property at a sale conducted by the Sheriff of Guernsey County, Ohio, pursuant to an Order of Sale issued by the Court of Common Pleas of Guernsey County. Philip Rich has not transferred the Site property since the date of his purchase and is, therefore, the present owner of the Site property.
13. On September 18, 1987, OEPA performed an annual RCRA inspection of the Site. This inspection noted that the Site was abandoned, the operator of the Site was bankrupt, the current owner was not actively using the property for hazardous waste management activities, and the generator of the pickle liquor was under Chapter 11 bankruptcy protection (LTV Steel filed a petition for reorganization under Chapter 11 of the U.S. Bankruptcy Code, 11 U.S.C. §1101 et seq., on July 17, 1986).
14. OEPA continued to monitor the Site, conducting additional RCRA compliance inspections during November 1988, July 1989, and September 1990. In 1991, OEPA requested that the EPA conduct an emergency removal at the site.
15. On March 28, 1991, Cindy Pelley of OEPA and EPA's On-Scene Coordinator Verneta Simon visited the Site with the current property owner, Philip J. Rich. Federal and State personnel observed the following conditions: one of the two buildings on the Site was deteriorating and had partially collapsed into Lagoon No. 3; each of the three lagoons had two (2) to three (3) inches of freeboard; vegetation at the Site had increased from what was noticed in earlier investigations; refuse on-site demonstrated that trespassing had occurred; and the seven aboveground fuel tanks were still standing.
16. On June 17, 1991, EPA had the Technical Assistance Team (TAT) (Ecology & Environment, an EPA contractor) conduct a site assessment. This assessment revealed high levels of chromium in sludge samples collected from Lagoon Nos. 1 and 2. The levels were high enough to characterize the sludge in Lagoon Nos. 1 and 2 as EPA Hazardous Waste Number D007 waste, 40 C.F.R. 261.24. The TAT also observed that someone had removed all seven fuel tanks and demolished the building near Lagoon No. 3; as a result of this building's demolition, additional building debris had entered Lagoon No. 3.

IV. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth above, and the Administrative Record supporting these removal actions, EPA determines that:

1. The L.H., Inc. Site is a "facility" as defined by section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
2. Spent pickle liquor and chromium are "hazardous substances" as defined by section 101(14) of CERCLA, 42 U.S.C. § 9601(14).
3. Each Respondent is a "person" as defined by section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
4. Respondent Janice Barricklow and Respondent Phyllis Snedegar are persons who, at the time of disposal of hazardous substances at the Site, operated the Site. Respondents Barricklow and Snedegar are therefore liable persons under Section 107(a) of CERCLA, 42 U.S.C. Section 9607(a).
5. Respondent Philip Rich is the present owner of the Site. Respondent Philip Rich is therefore a liable person under Section 107(a) of CERCLA, 42 U.S.C. Section 9607(a).
6. The conditions described in the Findings of Fact above constitute an actual or threatened "release" into the "environment", as defined by Sections 101(8) and (22) of CERCLA, 42 U.S.C. §§ 9601(8) and (22).
7. The conditions present at the Site constitute a threat to public health, welfare, or the environment based upon the factors set forth in Section 300.415(b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan, as amended ("NCP"), 40 CFR Part 300. These factors include, but are not limited to, the following:
 - a. actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, pollutants or contaminants; this factor is present at the Site because access to the Site by the public and animals is not completely restricted and the integrity of the lagoon liners is unknown. Furthermore, liquid and sludge samples collected from the lagoons by the Technical Assistance Team (TAT) on June 17, 1991, showed that sludge in Lagoons No. 1 and 2 exhibit the characteristics of D007 hazardous waste. D007 hazardous waste is any solid waste an extract of which, when analyzed using the Toxicity Characteristic Leachate Procedure (TCLP), exceeds 5 milligrams of chromium per liter (mg/l) (40 CFR 261.24). Chromium levels in the sludge were as follows: Lagoon No. 1 - 47 mg/l; and Lagoon no. 2 - 12 mg/l.
 - b. weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released; this factor is present at the Site due to the potential that precipitation will cause a release from the lagoons at the Site. A release of hazardous substances is possible because the lagoons are uncovered and so are unshielded from the

weather, have no secondary containment system, and, although the content levels of the lagoons varies with the weather, the lagoons have been observed by EPA to have as little as two (2) to three (3) inches of freeboard. Therefore, it is possible that one or more of the lagoons will overflow and that the overflow will enter Leatherwood Creek, which empties into Willis Creek (the water source for the Cambridge reservoir). Thus, weather conditions can create a direct contact threat to human populations and the environment.

7. The actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).
8. The removal actions required by this Order are necessary to protect the public health, welfare, or the environment, and are not inconsistent with the NCP and CERCLA.

V. ORDER

Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, EPA hereby orders that Respondents perform the following actions:

1. Notice of Intent to Comply

Respondents shall notify EPA in writing within 3 business days after the effective date of this Order of Respondents' irrevocable intent to comply with this Order. Failure of each Respondent to provide such notification within this time period shall be a violation of this Order.

2. Designation of Contractor, Project Coordinator, and On-Scene Coordinator

Respondents shall perform the removal actions themselves or retain contractors to implement the removal actions. Respondents shall notify EPA of either Respondents' qualifications or the name and qualifications of such contractors, whichever is applicable, within 5 business days of the effective date of this Order. Respondents shall also notify EPA of the name and qualifications of any other contractors or subcontractors retained to perform work under this Order at least 5 business days prior to commencement of such work. EPA retains the right to disapprove of the Respondents or any of the contractors and/or subcontractors retained by the Respondents. If EPA disapproves a selected contractor, Respondents shall retain a different contractor within 2 business days following EPA's disapproval and shall notify EPA of that contractor's name and qualifications within 3 business days of EPA's disapproval.

Within 5 business days after the effective date of this Order, the Respondents shall designate a Project Coordinator who shall be responsible for administration of all the Respondents' actions required by the Order and submit the designated coordinator's name, address, telephone number, and qualifications to EPA in writing. To the greatest extent possible, the Project Coordinator shall be present at the Site or readily available during site work. EPA retains the right to disapprove of any Project Coordinator named by the Respondents. If EPA disapproves a selected Project Coordinator, Respondents shall retain a different Project Coordinator within 3 business days following EPA's disapproval and shall notify EPA in writing of that person's name and qualifications within 4 business days of EPA's disapproval. Receipt by Respondents' Project Coordinator of any notice or communication from EPA relating to this Order shall constitute receipt by all Respondents.

The EPA has designated Jose Cisneros of the Emergency and Enforcement Response Branch, Region V, as its On-Scene Coordinator (OSC). A notice, document, information, report, plan, approval, disapproval or other correspondence required to be submitted by one party to another under the Order shall be deemed submitted either when hand delivered or as of the date of receipt by certified mail, return receipt requested. Respondents shall direct all submissions required by this Order to the OSC at U.S. EPA-Region V, 77 West Jackson Blvd., Chicago, Illinois 60604, by certified or express mail. Respondents shall also send a copy of all submissions to Jacqueline Kline, Assistant Regional Counsel, 77 West Jackson Blvd., CS-3T, Chicago, Illinois, 60604-3590.

3. Work to Be Performed

Respondents shall perform, at a minimum, the following response activities:

- a. Establish site security;
- b. Develop and implement a site health and safety plan;
- c. Evaluate the extent of surface soil contamination underneath the lagoons;
- d. Sample and characterize all hazardous wastes contained in the lagoons, remove the liners of the lagoons and any associated contaminated soil;
- e. Transport to and dispose of at an EPA Resource Conservation and Recovery Act (RCRA) approved disposal facility the liners of the lagoons, all hazardous substances contained in the lagoons, and any contaminated soil.
- f. Backfill the lagoons with clean fill to prevent further ponding.

3.1 Work Plan and Implementation

Within 10 business days after the effective date of this Order, the Respondents shall submit to EPA for approval a draft Work Plan for performing the removal activities set forth above. The draft Work Plan shall provide a description of, and an expeditious schedule for, the activities required by this Order.

EPA may approve, disapprove, require revisions to, or modify the draft Work Plan. If EPA requires revisions, Respondents shall submit a revised draft Work Plan within 7 business days of notification that revisions were required. The revised Work Plan shall be reviewed by the EPA, which may approve, disapprove, require revisions of, or modify and approve as modified the revised Work Plan. Respondents shall implement the Work Plan as finally approved in writing by EPA in accordance with the schedule approved by EPA. Once approved, or approved with modifications, the Work Plan, the schedule, and any subsequent modifications shall be fully enforceable under this Order. Respondents shall notify EPA at least 48 hours prior to performing any on-site work pursuant to the EPA-approved Work Plan.

Respondents shall not commence or undertake any removal actions at the Site without prior EPA approval.

3.2 Health and Safety Plan

Within 10 business days after the effective date of this Order, the Respondents shall submit a plan for EPA review and comment that ensures the protection of the public health and safety during performance of on-site work under this Order. This plan shall comply with applicable Occupational Safety and Health Administration (OSHA) regulations found at 29 CFR Part 1910. If EPA determines it is appropriate, the plan shall also include contingency planning. Respondents shall incorporate all changes to the plan recommended by EPA, resubmit a copy of the plan with any recommended changes within 3 business days of receipt of EPA's recommendations, and implement the plan during the pendency of the removal action.

3.3 Quality Assurance and Sampling

All sampling and analyses performed pursuant to this Order shall conform to EPA direction, approval, and guidance regarding sampling, quality assurance/quality control (QA/QC), data validation, and chain of custody procedures. Respondents shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with EPA guidance. Upon request by EPA, Respondents shall have such a laboratory analyze samples submitted by EPA for quality assurance monitoring. Respondents shall provide to EPA the quality assurance/quality

control procedures followed by all sampling teams and laboratories performing data collection and/or analysis.

Upon request by EPA, Respondents shall allow EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by Respondents or their contractors or agents while performing work under this Order. Respondents shall notify EPA, in writing, not less than 3 business days in advance of any sample collection activity. EPA shall have the right to take any additional samples that it deems necessary.

3.4 Reporting

Respondents shall submit a monthly written progress report to EPA concerning activities undertaken pursuant to this Order, beginning 30 calendar days after the date of EPA's approval of the Work Plan, until termination of this Order, unless otherwise directed by the OSC. These reports shall describe all significant developments during the preceding month, including the work performed and any problems encountered, analytical data received during the reporting period, and developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

Any Respondent that owns any portion of the Site, and any successor in title shall, at least 30 days prior to the conveyance of any interest in real property at the Site, give written notice of this Order to the transferee and written notice of the proposed conveyance to EPA and the State of Ohio. The notice to EPA and the State shall include the name and address of the transferee. The party conveying such an interest shall require that the transferee will provide access as described in Section V.4 (Access to Property and Information).

3.5 Final Report

Within 60 calendar days after completion of all removal actions required under this Order, the Respondents shall submit for EPA review a final report summarizing the actions taken to comply with this Order. The final report shall conform to the requirements set forth in Section 300.165 of the NCP. The final report shall also include a good faith estimate of total costs incurred in complying with the Order, a listing of quantities and types of materials removed, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destinations of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits).

The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

Under penalty of law, I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this report, the information submitted is true, accurate, and complete.

4. Access to Property and Information

Respondents shall provide or obtain access as necessary to the Site and all appropriate off-site areas, and shall provide access to all records and documentation related to the conditions at the Site and the activities conducted pursuant to this Order. Such access shall be provided to EPA employees, contractors, agents, consultants, designees, representatives, and State of Ohio representatives. These individuals shall be permitted to move freely at the Site and appropriate off-site areas in order to conduct activities which EPA determines to be necessary. Respondents shall submit to EPA, upon request, the results of all sampling or tests and all other data generated by Respondents or their contractors, or on the Respondents' behalf, during implementation of this Order.

Where work under this Order is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall obtain all necessary access agreements within 14 calendar days after the effective date of this Order, or as otherwise specified in writing by the OSC. Respondents shall immediately notify EPA if, after using their best efforts, they are unable to obtain such agreements. Respondents shall describe in writing their efforts to obtain access. EPA may then assist Respondents in gaining access, to the extent necessary to effectuate the response activities described herein, using such means as EPA deems appropriate.

5. Record Retention, Documentation, Availability of Information

Respondents shall preserve all documents and information relating to work performed under this Order, or relating to the hazardous substances found on or released from the Site, for six years following completion of the removal actions required by this Order. At the end of this six-year period and at least 60 days before any document or information is destroyed, Respondents shall notify EPA that such documents and information are available to EPA for inspection, and upon request, shall provide the originals or copies of such documents and information to EPA. In addition, Respondents shall provide documents and information retained under this Section at any time before expiration of the six year period at the written request of EPA.

6. Off-Site Shipments

All hazardous substances, pollutants or contaminants removed off-site pursuant to this Order for treatment, storage or disposal shall be treated, stored, or disposed of at a facility in compliance, as determined by EPA, with the EPA Revised Off-Site Policy, OSWER Directive Number 9834.11, November 13, 1987, promulgated pursuant to 42 U.S.C. § 9621(d)(3).

7. Compliance With Other Laws

All actions required pursuant to this Order shall be performed in accordance with all applicable local, state, and Federal laws and regulations except as provided in CERCLA Section 121(e) and 40 CFR Section 300.415(i). In accordance with 40 CFR Section 300.415(i), all on-site actions required pursuant to this Order shall, to the extent practicable as determined by EPA, and considering the exigencies of the situation, attain applicable or relevant and appropriate requirements under Federal environmental or state environmental or facility siting laws.

8. Emergency Response and Notification of Releases

If any incident or change in Site conditions during the activities conducted pursuant to this Order causes or threatens to cause an additional release of hazardous substances from the Site or an endangerment to the public health, welfare, or the environment, the Respondents shall immediately take all appropriate action to prevent, abate or minimize such release or the endangerment caused or threatened by the release. Respondents shall also immediately notify the OSC or, in the event of the OSC's unavailability, shall notify the Regional Duty Officer, Emergency and Enforcement Response Branch, Region V at (312) 353-2318, of the incident or changed Site conditions.

If a release occurs, Respondents shall submit a written report to EPA within 7 business days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or any endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. Respondents shall also comply with any other notification requirements, including those in CERCLA section 103, 42 U.S.C. § 9603, and section 304 of the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. § 11004.

VI. AUTHORITY OF THE EPA ON-SCENE COORDINATOR

The OSC shall be responsible for overseeing the implementation of this Order. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action undertaken by EPA or Respondents at the Site. Absence of the OSC

from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

EPA and Respondents shall have the right to change their designated OSC or Project Coordinator. EPA shall notify the Respondents, and Respondents shall notify EPA, as early as possible before such a change is made, but in no case less than 24 hours before such a change. Notification may initially be made orally, but shall be followed promptly by written notice.

VII. PENALTIES FOR NONCOMPLIANCE

Violation of any provision of this Order may subject Respondents to civil penalties of up to \$25,000 per violation per day, as provided in Section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1). Respondents may also be subject to punitive damages in an amount up to three times the amount of any cost incurred by the United States as a result of such violation, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Should Respondents violate this Order or any portion hereof, EPA may carry out the required actions unilaterally, pursuant to section 104 of CERCLA, 42 U.S.C. § 9604, and/or may seek judicial enforcement of this Order pursuant to section 106 of CERCLA, 42 U.S.C. § 9606.

VIII. REIMBURSEMENT OF COSTS

Respondents shall reimburse EPA, upon written demand, for all response costs incurred by the United States in overseeing Respondents' implementation of the requirements of this Order. EPA may submit to Respondents on a periodic basis a bill for all response costs incurred by the United States with respect to this Order. EPA's Itemized Cost Summary, or such other summary as certified by EPA, shall serve as the basis for payment.

Respondents shall, within 30 days of receipt of the bill, remit a cashier's or certified check for the amount of those costs made payable to the "Hazardous Substance Superfund," to the following address:

U.S. Environmental Protection Agency
Superfund Accounting
P.O. Box 70753
Chicago, Illinois 60673

Respondents shall simultaneously transmit a copy of the check to the Director, Waste Management Division, U.S. EPA Region V, 77 West Jackson Blvd., Chicago, Illinois, 60604-3590. Payments shall be designated as "Response Costs - L.H., Inc. Site" and shall reference the payors' name and address, the EPA site identification number (ML), and the docket number of this Order.

Interest at a rate established by the Department of the Treasury pursuant to 31 U.S.C. § 3717 and 4 CFR § 102.13 shall begin to

accrue on the unpaid balance from the day after the expiration of the 30 day period notwithstanding any dispute or an objection to any portion of the costs.

IX. RESERVATION OF RIGHTS

Nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order. EPA also reserves the right to take any other legal or equitable action as it deems appropriate and necessary, or to require the Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law.

X. OTHER CLAIMS

By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents. The United States or EPA shall not be a party or be held out as a party to any contract entered into by the Respondents or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out activities pursuant to this Order.

This Order does not constitute a pre-authorization of funds under section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2).

Nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against the Respondents or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or the common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106(a) or 107(a) of CERCLA, 42 U.S.C. §§ 9606(a), 9607(a).

XI. MODIFICATIONS

Modifications to any plan or schedule may be made in writing by the OSC or at the OSC's oral direction. If the OSC makes an oral modification, it will be memorialized in writing within 7 business days; however, the effective date of the modification shall be the date of the OSC's oral direction. The rest of the Order, or any other portion of the Order, may only be modified in writing by signature of the Director, Waste Management Division, Region V.

If Respondents seek permission to deviate from any approved plan or schedule, Respondents' Project Coordinator shall submit a written

request to EPA for approval outlining the proposed modification and its basis.

No informal advice, guidance, suggestion, or comment by EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondents shall relieve Respondents of their obligations to obtain such formal approval as may be required by this Order, and to comply with all requirements of this Order unless it is formally modified.

XII. NOTICE OF COMPLETION

When EPA determines, after EPA's review of the Final Report, that all work has been fully performed in accordance with this Order, except for certain continuing obligations required by this Order (e.g., record retention), EPA will provide notice to the Respondents. If EPA determines that any removal activities have not been completed in accordance with this Order, EPA will notify the Respondents, provide a list of the deficiencies, and require that Respondents modify the Work Plan to correct such deficiencies. The Respondents shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure to implement the approved modified Work Plan shall be a violation of this Order.

XIII. ACCESS TO ADMINISTRATIVE RECORD

The Administrative Record and a Liability File supporting these removal actions is available for review during normal business hours in the EPA Office of Regional Counsel, Region V, 111 W. Jackson Blvd., Third Floor, Chicago, Illinois. Respondents may contact Jacqueline Kline, Assistant Regional Counsel, at (312) 886-7167 to review the Administrative Record. An index of the Administrative Record and an index of the Liability file are attached to this Order.

XIV. OPPORTUNITY TO CONFER

Within 3 business days after receipt of this Order, Respondents may request a conference with EPA. Any such conference shall be held within 5 business days from the date of the request, unless extended by agreement of the parties. At any conference held pursuant to the request, Respondents may appear in person or be represented by an attorney or other representative.

If a conference is held, Respondents may present any information, arguments or comments regarding this Order. Regardless of whether a conference is held, Respondents may submit any information, arguments or comments in writing to EPA within 2 business days following the conference, or within 7 business days of receipt of the Order if no conference is requested. This conference is not an evidentiary hearing, does not constitute a proceeding to challenge

this Order, and does not give Respondents a right to seek review of this Order. Requests for a conference shall be directed to Jacqueline Kline, Assistant Regional Counsel, at (312) 886-7167. Written submittals shall be directed as specified in Section V.2 of this Order.

XV. SEVERABILITY


If a court issues an order that invalidates any provision of this Order or finds that Respondents have sufficient cause not to comply with one or more provisions of this Order, Respondents shall remain bound to comply with all provisions of this Order not invalidated by the court's order.

XVI. EFFECTIVE DATE

This Order shall be effective 10 business days following issuance unless a conference is requested as provided herein. If a conference is requested, this Order shall be effective 5 business days after the day of the conference.

IT IS SO ORDERED

BY: 

 William E. Muno, Acting Director
Waste Management Division
United States
Environmental Protection Agency
Region V

DATE: 10/13/92

LIST OF RESPONDENTS

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ADMINISTRATIVE RECORD
FOR
L.H., INC.

CAMBRIDGE, OHIO

August 28, 1992

<u>DATE</u>	<u>AUTHOR</u>	<u>RECIPIENT</u>	<u>TITLE/DESCRIPTION</u>	<u>PAGES</u>
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08/00/88	Weston-Sper	U.S. EPA	Site Assessment	25
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03/28/91	OhioEPA	File	RCRA Land Disposal Restrictions Inspection	15
03/28/91	OhioEPA	File	RCRA Hazardous Waste Facility Compliance Evaluation Inspection Checklist	18
05/01/91	Pelley, C., OhioEPA	Barricklow, J., L.H. Inc.	RCRA/Unpermitted TSD Notification of Violation	4
08/09/91	Uddin, N., E & E	Heaton, D., U.S. EPA	Site Assessment	110
09/09/91	Uddin, N., E & E	Heaton, D., U.S. EPA	Preliminary Action Removal Plans and Costs	9
09/12/91	Kaminski, J., OhioEPA	Udin, N., E & E	Letter & Closure Plan for L.H., Inc. Dated 1/24/84	9
00/00/00			Action Memorandum (Pending)	

LIABILITY FILE
FOR
L.H. INC.

CAMBRIDGE, OHIO

September 2, 1992

<u>DATE</u>	<u>AUTHOR</u>	<u>RECIPIENT</u>	<u>TITLE/DESCRIPTION</u>	<u>PAGES</u>
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11/03/80	Yorko, J., Republic Steel	Lewis, M., U.S. Attorney and Gorman, P., OEPA	Letter, Copy of Republic's Corporate Standing Order With L.H., Inc., and List of Shipments Taken by L.H., Inc.	18
11/04/80	Barricklow, J.	U.S. EPA	RCRA Notification of Hazardous Waste Activity at the L.H., Inc. facility	4
09/29/81			Lease of Site Property by C & D Oil Co., Inc. to L.H., Inc. from 10/1/81 to 9/30/82	5
11/13/81	Barricklow, J.	U.S. EPA	RCRA Part A Permit Application for the L.H., Inc. facility	8

11/13/81	Barricklow, J. Lewis, M., U.S. Attorney	Answers to Inter- rogatories in <u>Ohio v. L.H., Inc.</u> , Case No. 31918, Court of Common Pleas, Guernsey County, Ohio	21
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07/16/82	Barricklow, J. Constantelos, B., U.S. EPA	Response to 6/28/82 Request for Infor- mation	8
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07/15/83	McKinney, J., Talbert, P., Republic Steel U.S. EPA	Letter, Copies of Invoices and Other Documents Regarding Acceptance by L.H., Inc., of Spent Pickle Liquor Shipments From Republic Steel	62
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07/05/91	Bowden, R., U.S. EPA	Rich, P. and Sharon	General Notice of Potential Liability	10
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08/06/91	Schaeffer, M., Kemp, Schaeffer & Rowe Co., L.P.A.	Beasley, L., U.S. EPA	Follow-up to 7/9/91 Letter and Response to Information Request from Sarah Gornall, Janice Barricklow and Phyllis Snedegar	307
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10/08/91	Bowden, R., U.S. EPA	Rich, P.	Follow-up to Inadequate Response	3
10/28/91	Rich, P.	Bowden, R., U.S. EPA	Response to 10/8/91 Follow-up to Inadequate Response	3
11/01/91	Schaeffer, M., Kemp, Schaeffer & Rowe Co., L.P.A.	Beasley, L., U.S. EPA	Answers to Questions Propounded by EPA, Copies of Income Tax Returns	160
03/04/92	DeSelm, D., DeSelm, DeSelm & Baker	Kline, J., U.S. EPA	Letter, Copies of His File Notes Regarding Deed for Site Property and its Transmittal to P. Rich, and Copy of Deed On Decree or Order Of Sale for Property	9
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